

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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F5a

March 24, 2005

TO: Commissioners and Interested Persons

FROM: Charles Lester, Deputy Director
Diane Landry, District Manager
Susan Craig, Coastal Planner

SUBJECT: **CITY OF CAPITOLA: LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 3-04 Part B.** For public hearing and Commission action at its meeting of April 15, 2005, to be held in Santa Barbara at Fess Parker's Doubletree Resort, 633 E. Cabrillo Blvd., Santa Barbara, CA 93103.

SYNOPSIS

The City of Capitola is proposing to amend the Implementation Plan (Zoning Ordinance) of the Local Coastal Program to establish citywide regulations for wireless telecommunications facilities. Additionally, the City proposes to amend the certified zoning map to rezone three parcels from RM-M (Multiple Family Residential – Medium Density) to PD (Planned Development).

SUMMARY OF STAFF RECOMMENDATION

Staff has reviewed the proposed Zoning Ordinance amendments for consistency with the certified Land Use Plan. Issues raised by the proposed amendments include visual impacts and land use intensity. As discussed in detail below, Staff recommends **approval** of Local Coastal Program Major Amendment No. 3-04 Part B, as submitted.

ANALYSIS CRITERIA

The Commission certified the City of Capitola's Land Use Plan in June 1981 and the City Council accepted this certification action in November 1981. The Implementation Plan was certified in January 1990 and the City accepted this certification action in April 1990. The City has organized and submitted this LCP amendment request in accordance with the standards for amendments to certified LCPs (Coastal Act Sections 30513 and 30514, and California Code of Regulations 13542 and 13551 through 13553).

The proposed amendment affects the implementation plan component of the City of Capitola LCP. The standard of review for implementation amendments is that they must be consistent with and adequate to carry out the policies of the certified coastal Land Use Plan.



California Coastal Commission

ADDITIONAL INFORMATION

Further information on the submittal may be obtained from Susan Craig at the Central Coast District Office of the Coastal Commission at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863.

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Exhibits:

- Exhibit 1: Wireless Communication Facilities Amendment Language
- Exhibit 2: 409 Pine Street Rezoning Map
- Exhibit 3: 1255 41st Avenue Rezoning Map
- Exhibit 4: Brommer Street at 38th Avenue Rezoning Map
- Exhibit 5: Resolutions

I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS

Staff recommends adoption of the following resolutions:

Resolution I. (Resolution to approve City of Capitola Implementation Plan Major Amendment No. 3-04 (Part B) as submitted)

Staff recommends a **NO** vote on the motion below. Failure of this motion will result in certification of the Implementation Plan amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion. *I move that the Commission **reject** Major Amendment #3-04 (Part B) to the City of Capitola Local Coastal Program Implementation Plan as submitted.*

Resolution to Certify the Implementation Plan Amendment as Submitted: *The Commission hereby **certifies** Major Amendment #3-04 (Part B) to the Implementation Plan of the City of Capitola Local Coastal Program, as submitted, and adopts the findings set forth below on grounds that the Implementation Plan conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment will meet the requirements of the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any*



significant adverse impacts on the environment that will result from certification of the Implementation Plan amendment as submitted.

II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Wireless Communication Facilities

The City of Capitola is proposing to add a wireless communication facilities (WCF) ordinance to its certified Implementation Plan (zoning ordinance). Currently, WCFs (such as cellular telephone facilities, towers, and antennas for transmitting electromagnetic/radio signals) aren't explicitly addressed by the LCP. Such facilities are, however, development regulated by the current LCP in the coastal zone, including the use and design standards of the underlying zone districts in which they may be proposed. The new proposed ordinance provides specific standards for WCFs, including specific siting and design criteria meant to minimize the potential for such facilities to negatively impact the scenic, open space, and community/aesthetic character of the City's built and natural environment. The WCF ordinance sections are not meant to pre-empt federal law, and in particular are written to be consistent with the Federal Telecommunications Act of 1996 (FTA). The FTA includes restrictions regarding what state and local governments can and cannot do with regard to WCFs (including prohibiting them from regulating WCFs on the basis of the environmental/health effects of radio frequency (RF) emissions). The FTA does not, however, generally prohibit state and local governments from otherwise regulating the siting, design, and modification of WCFs. Per the FTA, such regulation cannot discriminate among service providers and cannot prohibit provision of wireless service within the City.

The purpose of the City's proposed wireless telecommunications ordinance is to provide a uniform and comprehensive set of standards for the development, siting, and installation of wireless communication facilities. The regulations proposed are designed to protect and promote public safety, community welfare, and the aesthetic quality of the City, while not unduly restricting the development of WCFs. The proposed ordinance prohibits the location of new WCFs in or within 500 feet of zoning districts that are primarily residential, such as single-family residential, multiple-family residential, mobile home exclusive, or commercial residential zoning districts, and instead requires the location of new WCFs in predominately non-residential zoning districts. Additionally, the proposed ordinance prohibits the installation of wireless communication facilities in areas within 3,000 feet of the coastline (with a few exceptions) and *absolutely* prohibits the installation of WCFs within 1,000 feet of the coastline (see Exhibit 1, pg. 16). Any proposed WCF device in the Coastal Zone will require a coastal permit. *The proposed ordinance is similar to ordinance language the Commission previously approved for Santa Cruz County and the City of Santa Cruz.*

Land Use Plan Consistency

In order to approve an Implementation Plan amendment, it must be consistent with and adequate to carry out the Land Use Plan. The following Land Use Plan policies provide protection of views and visual aesthetics within the City of Capitola, as well as protection of parks and open space areas:

Visual Resources Policy III-3: *No permanent structures shall be permitted on the open, sandy beach area of Capitola because of their potential impact on visual resources, hazards, and public*



recreation, except for facilities required for public health and safety (lifeguard stands, approved beach erosion control structures).

Visual Resources Policy III-5: *Permitted development shall not block or detract from public views to and along Capitola's shoreline.*

Natural Systems Policy VI-2: *It shall be the policy of the City of Capitola to protect, maintain and, where possible, enhance the environmentally sensitive and locally unique habitats within its coastal zone, including dedication and/or acquisition of scenic conservation easements for protection of the natural environment. All developments approved by the City within or adjacent to these areas must be found to be protective of the long-term maintenance of these habitats.*

Natural Systems Policy VI-8: *The City shall maintain and, as feasible, continue to enhance the habitat values of Soquel Creek through the use of the Automatic Review Zone for the Soquel Creek Riparian Corridor and Lagoon (as designated on Map VI-1). When considering or granting a permit in this area, the City shall give special consideration to the environmental sensitivity of this area, including dedication of scenic conservation easements. In addition, the City shall encourage the use of appropriate native local riparian vegetation.*

Natural Systems Policy VI-10: *It shall be the policy of the City of Capitola to protect the winter resting sites of the Monarch Butterfly in the eucalyptus groves of Escalona Gulch, New Brighton Gulch, and Soquel Creek, as designated on Map VI-2 by requiring detailed analysis of the impacts of development on the habitat.*

Locating New or Intensified Development Policy (in relevant part): *It shall be the policy of the City of Capitola to provide for the protection, preservation, and proper disposition (where necessary) of archaeological, historical, and paleontological resources within Capitola...*

The proposed ordinance prohibits wireless communication facilities (WCFs) in or within 500 feet of a number of zoning districts, including the primary residential, parks and open space, and public facilities zoning districts. In addition, the proposed ordinance prohibits WCFs within 3,000 feet of the coastline, with two exceptions: if the proposed wireless facility would eliminate or substantially reduce significant a gap in the applicant's carrier network and if there are no viable alternatives outside the restricted coastal area that would substantially reduced said significant gap (see Exhibit 1, pg. 16). Consistent with the Natural Systems Policies of the LUP, these restrictions would preclude installation of WCFs at New Brighton State Beach (which contains a monarch butterfly eucalyptus grove) given that this area is zoned PF-P (Public Facility – Parks/Open Space) and is located directly adjacent to the coastline. Additionally, WCFs would be prohibited along Soquel Creek because the entire portion of Soquel Creek that lies within the coastal zone is located within 3,000 of the coastline. The proposed ordinance also prohibits installation of WCFs if the design and/or construction of the WCF would damage a known archaeological site (Exhibit 1, pg. 17). Given these restrictions, the primary areas where WCFs could be located in the City include commercial, office, or industrial sites located at least 3,000 feet from the coastline. Any WCF development in these highly developed zones, however, would be subject to specific design guidelines to minimize the visual impacts of any proposed antenna type. These design guidelines address issues such as location, height, color and materials, as well as "stealth" techniques to camouflage the



WCF. All proposed WCFs will be required to be located so as to minimize their visual impact to the maximum extent feasible. Also, landscaping may be required to visually screen WCFs from public view and to provide a backdrop to camouflage the facilities. In addition, all WCFs will be required to comply with all applicable regulations and development standards of the zoning district in which they are situated (see Exhibit 1, pg. 15). Furthermore, the proposed ordinance requires co-location of new WCFs onto existing telecommunication facilities where feasible (see Exhibit 1, pp. 12-13). Finally, as new technology is developed that may lessen the visual impact of WCFs, the proposed ordinance requires that a WCF shall be upgraded to the new standards (see Exhibit 1, pg. 33). These requirements will ensure minimization of visual impacts of WCFs in the coastal zone, consistent with the visual protection policies of the certified Land Use Plan.

The proposed WCF ordinance addresses the issues associated with siting and designing WCFs in the most sensitive coastal zone areas, particularly the City's natural areas and areas within 3,000 feet of the coastline that could easily be adversely affected by a proliferation of WCF buildings, towers, and antennas. Thus, the proposed zoning ordinance to regulate development of wireless telecommunication facilities is consistent with and adequate to carry out the policies of the certified LUP.

B. Rezoning of Three Properties

The following City of Capitola LCP policy provides for exclusive residential development in certain areas of the City, and states:

***Policy I-2.** It shall be the policy of the City of Capitola to encourage mixed commercial/residential development in the Village and to designate certain existing residential areas as exclusively residential.*

The proposed amendment consists of zoning map amendments to rezone three separate properties from RM-M (Multiple Family Residence – Medium Density) to PD (Planned Development). See Exhibits 2-4 for the location of these properties. The amendment provides for a three-unit townhouse property on Pine Street, a six-unit condominium project on 41st Avenue, and a six-unit condominium project (developed by Habitat for Humanity as affordable housing) on Brommer Street. These projects have already been developed, although the City did not apply for the zoning amendments until recently. The property located on Pine Street is approximately 3,000 feet from coastal access points; the properties located on 41st Avenue and on Brommer Street at 38th Avenue are more than 4,000 feet from coastal access points. In all three cases, the parcels are located in heavily developed residential areas of the City, with the development surrounding these parcels consisting mostly of multi-family dwellings, with some single-family dwellings also. In addition, the property on heavily developed 41st Avenue is located behind a church and its associated parking lot.

All three parcels are designated R-M (Residential Medium: 10 to 15 units) on the certified Land Use Plan map. In all three cases, the development densities for the subject parcels are consistent with that allowed under the certified Land Use Plan map (specifically, the Pine Street project has a density of 14 units/acre, the 41st Avenue project has a density of 11.5 units/acre, and the Brommer Street project has a density of 13 units/acre).

The proposed PD zoning district provides that standards for area, coverage, density, yard requirements,



parking and screening for PD uses shall be governed by the zoning district most similar to the proposed PD district (RM-M in this case). However, exceptions to these standards are allowed when it is found that the exceptions “encourage a desirable living environment and are warranted in terms of the total proposed development or unit thereof.” The City originally had approved a triplex for the Pine Street parcel; the applicant then wished to construct the units as townhouses, which would allow them to be individually owned. Although the triplex project on the single lot met the RM-M zoning district development standards regarding setbacks, lot size, and lot coverage, the conversion from a triplex to townhouses required a subdivision, which made it difficult to conform to the development standards of the RM-M zoning district within the newly created lot lines. The same is true for the condominium developments located on 41st Avenue and Brommer Street. Thus, the rezoning to PD allows appropriate flexibility regarding setbacks, lot size, and lot coverage for these individually owned units (which would have met the requirements of the RM-M zoning district if the developments were standard multi-family units that were not individually owned). Regarding parking standards, the projects on Pine Street and 41st Avenue meet the certified parking standards of the RM-M zone; the Brommer Street Habitat for Humanity project provides 1 covered space and 1 additional space for each unit, which is one space less than is required under the RM-M zoning district regulations. Rezoning to PD also allows for the flexibility to reduce the required parking to two spaces. This parking reduction will not have an adverse impact on coastal access given that this project is located more than 4,000 feet from coastal access points.

In conclusion, the Commission finds that the proposed zoning map amendments are consistent with the LUP designation for the parcels regarding density and are consistent with LCP Policy 1-2 regarding exclusively residential areas within the City of Capitola.

III. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission’s review and development process for Local Coastal Programs and amendments to them has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does utilize any environmental information that the local government has developed. Approval of the amendments, as submitted, will not have significant environmental effects, consistent with the California Environmental Quality Act.

